

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

**M.F., a minor, by and through his father, §
MICHAEL FISHER, and his mother, §
KATHERINE FISHER, §**

Plaintiff, §

v. §

**CARROLL INDEPENDENT §
SCHOOL DISTRICT, WHITNEY §
WHEELER, in her individual capacity §
and capacity as Principal of Durham §
Intermediate School, AND KIM RAY, §
in her individual capacity and capacity §
as Assistant Principal and Campus §
Behavior Coordinator of Durham §
Intermediate School, §**

Defendants. §

Civil Action No. 4:23-cv-01102-O

JURY TRIAL DEMANDED

ORAL ARGUMENT REQUESTED

**PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER
AND REQUEST FOR EMERGENCY HEARING**

Plaintiff M.F., a minor, by and through his father, Michael Fisher, and his mother, Katherine Fisher, respectfully move for a temporary restraining order pursuant to Federal Rule of Civil Procedure 65 that will prevent Defendant Carroll Independent School District, its officers, employees, agents, attorneys and successors, and all persons in active concert or participating with any of them, from imposing disciplinary action on Plaintiff M.F. that violates his constitutional rights. Pursuant to Local Civil Rule 7.1(d), Plaintiff M.F.'s contentions of fact and/or law, as well as his argument and authorities, are in the brief accompanying this motion.

Further, and critically, Defendants' unconstitutional punishment of Plaintiff M.F. has already begun to deprive M.F. of his constitutional rights, and every second that passes while the

punishment remains in effect inflicts irreparable harm on M.F. *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.”). As such, Plaintiff M.F. respectfully but **urgently** requests an expedited hearing on the Motion at the earliest time the Court can consider the Motion.

Dated: October 30, 2023

Respectfully submitted,

/s/ Griffin S. Rubin

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1(b) and Federal Rule of Civil Procedure 65(b)(1)(B), I certify that I called Katie Pestcoe of Leasor Crass, P.C., the attorney who represented Defendants at M.F.'s administrative hearing, on October 29, 2023, at approximately 1:45 p.m., to inform her of this lawsuit and Plaintiff's intent to move for a TRO. Ms. Pestcoe did not answer the phone, and I left her a voicemail at that time to inform her of this lawsuit and Plaintiff's intent to move for a TRO. I then emailed Ms. Pestcoe (katie@leasorcrass.com) on October 29, 2023, at 2:02 p.m. to inform her of this lawsuit and Plaintiff's intent to move for a TRO. On October 30, 2023, Ms. Pestcoe indicated that the Defendants opposed the relief sought.

/s/ Griffin S. Rubin
Griffin S. Rubin